

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 29, 2002, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Steve Duvall, Patte Newman, Greg Schwinn and Cecil Steward (Gerry Krieser, Roger Larson, Mary Bills-Strand and Tommy Taylor absent); Ray Hill, Mike DeKalb, Jason Reynolds, Becky Horner, Brian Will, Duncan Ross, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the meeting held May 15, 2002. Duvall moved to approve the minutes, seconded by Steward and carried 5-0: Carlson, Duvall, Newman, Schwinn and Steward voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

May 29, 2002

Members present: Carlson, Duvall, Newman, Schwinn and Steward; Krieser, Larson, Bills-Strand and Taylor absent.

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3365; FINAL PLAT NO. 02014, HIGHLANDS BUSINESS PARK 2ND ADDITION; COMPREHENSIVE PLAN CONFORMANCE NO. 02002, FY 2002 ACTION PLAN; and STREET AND ALLEY VACATION NO. 02003.**

Carlson moved to approve the Consent Agenda, seconded by Duvall and carried 5-0: Carlson, Duvall, Newman, Schwinn and Steward voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

Note: This is final action on the Highlands Business Park 2nd Addition Final Plat No. 02014, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 1977
FOR AN EARLY CHILDHOOD CARE FACILITY
ON PROPERTY GENERALLY LOCATED
AT SOUTH 25TH AND “L” STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 29, 2002

Members present: Duvall, Newman, Steward, Carlson and Schwinn; Krieser, Larson, Bills-Strand and Taylor absent.

Staff recommendation: Conditional approval.

Jason Reynolds of Planning staff submitted a letter from the President of the Woods Park Neighborhood Association requesting a deferral to allow the association to discuss this application at a neighborhood meeting scheduled for June 11th.

Proponents

1. Susan Thelen, the applicant, appeared to answer any questions. She and her 26-year-old daughter intend to start a day care center for 12 or fewer children. The reason for the special permit is because the day care would be operated in a rental property and no one would be residing on the premises. There would be a 6' privacy fence on the front and back. She does not intend to erect any signs. There is parking both in the front and back, and the back has a paved alley. It is a 2-bedroom bungalow. There will be an infant room, toddler room and preschool room. The Principal at Elliott School has indicated that there is a great need in this area for before- and after-school care.

Thelen would like to have the day care in operation by this fall. She agreed with the conditions of approval.

Steward asked whether the applicant had met with the neighbors. Thelen indicated that she has owned the property for 5 years and did not know there was a neighborhood association. She has met with the adjacent neighbors on either side of the house.

Steward wondered whether the applicant would be amenable to deferring this application so that she could meet with the association. Thelen will definitely meet with them but it would set her schedule back if this application is delayed. She pointed out that the neighborhood association letter was only sent one hour before this meeting. She did attempt to make contact with them. Thelen believes this day care center would be an improvement to the

neighborhood. She is working on a grant to help pay for some of the improvements. She has received letters of recommendation from Annette McRoy of the City Council and the Principal of Elliott School.

Newman inquired about the timeframe. Reynolds advised that this is final action by the Planning Commission with a 14-day appeal period. It is not scheduled at City Council unless appealed. If action is delayed two weeks, the appeal period would be 14 days from June 12th.

Schwinn suggested that if the Commission took action today, the applicant could still meet with the neighborhood association and they would have an opportunity to appeal the action to the City Council, if they deemed it necessary.

Schwinn inquired about the Woods Park Neighborhood Association boundaries. Reynolds stated that he did check the map and the Woods Park Neighborhood does extend to this street.

Steward wondered whether the neighborhood association would receive notice of the Planning Commission action. Jean Walker of Planning staff advised that the neighborhood association contacts would receive notice of the Commission action and a copy of the resolution.

There was no testimony in opposition.

Carlson moved to defer two weeks with continued public hearing and administrative action on June 12, 2002, seconded by Newman for purposes of discussion.

Carlson does not have any objection to the permit at this time, but the neighborhood association has made a request and he believes that the Commission has honored such requests in the past and has tried to encourage that communication as part of the process.

Duvall expressed disappointment that the neighborhood association notified the Commission at the eleventh hour and did not appear at this hearing to make the deferral request.

On the other hand, Steward suggested that it is the property owner's responsibility to do the due diligence to determine what neighborhood they are working within. Although this is not a penalty, Steward is suggesting that there should be an opportunity under any circumstance for discussion because there could be traffic implications, although minimal.

Schwinn is opposed to deferral. He does not believe the neighborhood association should be involved. This is a permitted use in the zoning.

Motion for two-week deferral, with continued public hearing and administrative action scheduled for June 12, 2002, carried 3-2: Newman, Steward and Carlson voting 'yes'; Schwinn and Duvall voting 'no'; Krieser, Larson, Bills-Strand and Taylor absent.

COUNTY SPECIAL PERMIT NO. 193,
LAKEWOOD HILLS COMMUNITY UNIT PLAN,
and
COUNTY PRELIMINARY PLAT NO. 02006,
LAKEWOOD HILLS,
ON PROPERTY GENERALLY LOCATED
AT NO. 81ST STREET AND AGNEW ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 29, 2002

Members present: Duvall, Newman, Steward, Carlson and Schwinn; Krieser, Larson, Bills-Strand and Taylor absent.

Staff recommendation: Conditional approval.

Mike DeKalb of Planning staff submitted a letter in opposition from Dan and Jayme Moore, owners of the adjoining residential lot, with concerns about protecting and preserving the current rights are their property and their property values.

Proponents

1. Bob Lookabaugh, the owner and developer, presented the application in the absence of his engineer. He also submitted additional testimony in writing. Lookabaugh has owned this parcel for 35 years. He showed photographs of the property prior to his purchase and after his purchase showing trees and farmland. He has built a small lake in the northwest corner of the property as an enhancement to the bio-life. Thousands of trees have been planted. Acres of wild flowers and native grasses have been planted as well as deciduous trees and shrubs.

Lookabaugh indicated that he intends to comply with the conditions of approval; however, there is one small parcel of 1.3 acres in the northern part that was sold about six years ago adjacent to Agnew Road. The Health Department has recently decided that the 1.3 acre parcel should have more property, so Lookabaugh is hoping to sell roughly 3 contiguous acres. Lookabaugh, however, is reluctant to give up the bonus of one parcel. It has been suggested that the 3 acres become Outlot A, and the owner would then have to allow access to the property to those with access to Outlot B, which is intended to be a conservation easement. Lookabaugh indicated that he was surprised by the letter in opposition from the Moore's because he thought he had reached agreement with them.

Lookabaugh stated that this is an acreage that is totally unique in this area and with the majority of it as a conservation easement, we have a great opportunity to support the Greenprint Challenge and build the underpinnings of what can be a long term, excellent wildlife nature preserve.

Opposition

1. Dan Moore, owner of the adjacent property, testified in opposition. He did not mean to upset the applicant. He is in support of the development if they can resolve the outlot situation.

Schwinn sought to clarify the issue. The Health Department is concerned that the Moore's won't have enough land if they have a problem with their septic system. DeKalb concurred. The Moore's only have 1.3 acres. The Health Department has adopted a standard in the code that requires 3 acres for a septic system and DEQ requires 3 acres for lagoons. There is no variance procedure. The concern is that if the Moore's septic system failed, they would have to add laterals and would need additional land. The attempt at a compromise here is that Outlot A is shown as part of the total acreage of the CUP, coming out to 5.001 units. We've got nothing to spare.

Steward suggested then that there is no use opportunity between the two owners without a sale transaction. DeKalb suggested a lease. If the conservation easement was written in such a way to not prohibit a lease or an easement could be granted for use of laterals. Steward commented that leases and sales begin at \$1.00 and other valuable consideration.

Schwinn asked staff how to resolve this in the conditions of approval. DeKalb believes that it is an issue between the two owners. Staff believes there is an opportunity to resolve it through the conservation easement and possibly a lease agreement. But Schwinn does not believe that gives the Moore's a right in the future if they need it. It's a leap of faith. DeKalb suggested that the two parcels could be left totally independent with the 1.3 acre lot not in the CUP. This leaves 83 acres in the CUP with 5 lots. The two property owners can choose to work together, or they can have stand alone pieces. In that sense, Outlot A is not needed.

Moore is concerned about the potential future sale of his property if it does not meet the Health Department standards. Moore wants this dilemma resolved. He likes the Lookabaugh plan but he needs to preserve his own rights.

DeKalb further attempted to explain the situation. This is an issue that hasn't happened. The Health Department has changed the rules. Today, they require 3 acres. This is an existing lot with waste disposal system and existing house. If their septic system should fail, they can meet the Health Department requirements by buying additional land. DeKalb further pointed out that at this point in time, there is no grandfather clause in the Health Department codes;

however, they are working toward that. At this point in time, the system is not failing and the Health Department has not issued any letters of correction.

2. Charles Maly, 2405 Branched Oak Road, testified that he is not in favor or opposed. He does not have a clear plan. He spoke with the applicant. He spoke with Mike DeKalb. Listening to today's comments, some of it is clear and some of it is not. He owns the property 1/4 mile south. All three of the south properties are supposed to be clustered together. He is planning to build his home directly south, but his concern is the price of these properties. Preserving the property value and preserving the character of the area for their lifestyle are his concerns. Schwinn clarified that the community unit plan only allows 5 lots—they cannot resubdivide after that. Maley pointed out that this is basically a pretty pure section at this time. His main concern is that this may open the door for someone in the future. It needs to be right from the start so that a precedence is established for the future. He wants this to be an area of good quality neighbors and responsible residents.

Response by the Applicant

Lookabaugh indicated that he anticipates developing high-end homes on the property. His goal is to preserve it as a nature preserve.

As far as the Moore's, he believes that he and the Moore's are both trying for the same thing. He understands their desire to have the property. It seems like it would be a minor variance to favor the process where he could sell it to them after the CUP is concluded, and then they could have that right to put the septic tank or whatever other facilities are required on that property and also be able to own it as their own without other community access.

Steward observed that there are a number of options to work out between Lookabaugh and the Moore's. He sought clarification from Lookabaugh that he is amenable to working it out. Lookabaugh agreed that he would like to work it out. In fact, Lookabaugh believes they have reached a basic agreement that if the CUP passes, Lookabaugh will sell that outlot to the Moore's. They have already agreed upon the price.

Steward commended Lookabaugh for the work he has done over the 35 years on a barren piece of property. From the appearance of the photograph, Steward believes it will just continue to become a joy to anyone who lives within the vicinity. Lookabaugh is hopeful that it will serve as a model to others to do the same thing.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 193

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 29, 2002

Duvall moved to approve the staff recommendation of conditional approval, seconded by Steward and carried 5-0: Duvall, Newman, Steward, Carlson and Schwinn voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

COUNTY PRELIMINARY PLAT NO. 02006

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 29, 2002

Duvall moved to approve the staff recommendation of conditional approval, seconded by Steward.

Schwinn believes this is very commendable work that has been done on this property and we need to encourage it. Duvall concurred. This is really long range planning by planting the trees and adding more each season.

Motion for conditional approval carried 5-0: Duvall, Newman, Steward, Carlson and Schwinn voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

ANNEXATION NO. 02003

and

MISCELLANEOUS NO. 02003,

DECLARATION OF SURPLUS PROPERTY,

GENERALLY LOCATED AT

SOUTH 84TH STREET AND PINE LAKE ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 29, 2002

Members present: Duvall, Newman, Steward, Carlson and Schwinn; Krieser, Larson, Bills-Strand and Taylor absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Brian Will of Planning staff provided background on this proposal. The city has been in discussions for the last couple of years with the Pine Lake SID #2 concerning the possibility of annexation. Recent events have brought the issue to the forefront. Most notably, the Planning Commission considered late last year, the preliminary plat and annexation of Parker's Landing. With the approval of that preliminary plat and annexation, the Pine Lake SID just to the south became contiguous and adjacent to the City. The SID receives its water supply from three wells. Shortly after the Parkers Landing approval, one of the three wells failed. It is the responsibility of the SID to provide water so they were in the position of having to make up that shortfall. On May 13, 2002, the city entered into an Interlocal Agreement with

the Pine Lake SID #2 to allow connection to City water to make up that shortfall in water supply. The connections are in South 84th Street. Those connections are due to be made by June 25, 2002. The Interlocal Agreement provides that the SID acknowledge that annexation is imminent.

Will explained that the question before the Planning Commission is compliance with the Comprehensive Plan. The staff has reviewed the annexation as to compliance with the Comprehensive Plan, and specifically the staff reviewed it as to compliance with the policy that land which is contiguous may be annexed and annexation generally applies opportunity to access the services. The water connections will be made to existing water lines in South 84th Street. The property is developed as single family residential. The staff finds that this area is generally developed urban in character, is contiguous to the city limits and generally has city utilities available or planned for.

With regard to the declaration of surplus property, this specifically relates to the properties cross-hatched on the map, being those properties currently developed as golf course, recreational trails and open space. The Parks and Recreation Department has no interest in maintaining or being liable for these facilities and staff has made the recommendation that those properties be declared surplus and deeded back to one of the remaining entities after annexation, either the homeowners association or the tennis and golf association.

Will observed that the new Comprehensive Plan was adopted on May 28, 2002. The staff recommendation remains the same under the new Comprehensive Plan policies.

Steward inquired as to why the lake and lake edges are not being declared surplus. Will explained that the lake is owned by the Pine Lake Association as opposed to the SID.

Newman noted that the surplus property would become private property for the homeowners. She wondered whether the neighborhood to the north would be able to use the property. Will did not anticipate that there will be any difference in the use of the outlots after they are deeded back to the homeowners association.

2. Bill Austin, Erickson & Sederstrom, testified in support on behalf of the SID #2 of Lancaster County and Pine Lake Association.

There was no testimony in opposition.

Public hearing was closed.

ANNEXATION NO. 02003

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 29, 2002

Carlson moved to approve the staff recommendation as to conformance with the Comprehensive Plan, seconded by Duvall.

Newman applauded the staff for sending the information to the Pine Lake residents and holding the information meeting. It is wonderful information and she believes that is why we don't have a lot of people here because it answered their questions ahead of time.

Motion carried 5-0: Duvall, Newman, Steward, Carlson and Schwinn voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

COMPREHENSIVE PLAN CONFORMANCE NO. 02003

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 29, 2002

Carlson moved to approve the staff recommendation as to conformance with the Comprehensive Plan, seconded by Duvall and carried 5-0: Duvall, Newman, Steward, Carlson and Schwinn voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

COUNTY SPECIAL PERMIT NO. 195,
BEAVER CREEK COMMUNITY UNIT PLAN,
and
COUNTY PRELIMINARY PLAT NO. 02011,
BEAVER CREEK,
ON PROPERTY GENERALLY LOCATED
AT THE SOUTHEAST CORNER OF
134TH AND "O" STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 29, 2002

Members present: Duvall, Newman, Steward, Carlson and Schwinn; Krieser, Larson, Bills-Strand and Taylor absent.

The Clerk announced that the applicant has requested an additional two-week deferral until June 12, 2002.

Steward moved to defer, with continued public hearing and administrative action scheduled for June 12, 2002, seconded by Newman and carried 5-0: Duvall, Newman, Steward, Carlson and Schwinn voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

SPECIAL PERMIT NO. 1961
FOR MATERIAL AND EQUIPMENT STORAGE,
ON PROPERTY GENERALLY LOCATED AT
YANKEE HILL ROAD AND CORAL DRIVE.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 29, 2002

Members present: Duvall, Newman, Steward, Carlson and Schwinn; Krieser, Larson, Bills-Strand and Taylor absent.

The Clerk submitted a letter from the applicant requesting an additional two-week deferral until June 12, 2002.

Carlson moved to defer, with continued public hearing and administrative action scheduled for June 12, 2002, seconded by Duvall and carried 5-0: Duvall, Newman, Steward, Carlson and Schwinn voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

ITEMS NOT ON THE AGENDA

1. Craig Groat gave testimony in opposition to the potential sale of the Old Federal Building. According to AICP Code of Ethics, the planner must strive for excellence of design. According to the American Institute of Architecture, members should respect their natural and cultural heritage. It would be in violation of this code to sell this building.

The Old Federal Building is very much part of our cultural heritage. Groat shared old photographs of the building's exterior when it was known as Government Square. People do not realize what is in this building. It is in excellent condition. Our city property manager states that it is working excellent as a city office building. It is worth between 10 and 20 million dollars. There is a proposal to give this building away without any income coming in off of it for years. This would be fiscally irresponsible and irresponsible to the heritage of our city. There have been approximately 2 million dollars put into this building by the city. This building has been brought up to the ADA requirements and has new electrical service bringing it up to safety standards. The asbestos removal has been accomplished. There are new fire escapes.

Groat believes it is totally disgusting that there is a proposal to put apartments and a restaurant in a historic building. This does not deserve consideration.

There being no further business, the meeting was adjourned at 2:20 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 12, 2002.